

June 7, 2024

**VIA EMAIL**

Re: Hospital staffing law

Dear Dr. Hathi,

During the 2023 legislative session, a coalition representing hospitals and labor worked together to pass a package of bills to support Oregon's health care workforce. One of the bills was HB 2697, the hospital staffing law. We are proud of our work with the coalition, including ONA and SEIU, to negotiate this complex bill and to advocate for its passage. This bill is a model of cooperation and compromise and represents a commitment to serve patients. We are disappointed that ONA has recently chosen an approach that fosters conflict and division, and we hope that ONA will seek to address any differences of opinion constructively, working with the coalition. We disagree with ONA's recent characterization of hospitals' implementation of this law. Despite that disagreement, we remain committed to working with the coalition to address implementation challenges and to communicate to OHA and other stakeholders with one voice on issues related to implementation. We are aware that ONA has written to you, and we write to you today to provide our perspective.

Coalition representatives spent months negotiating this law, which includes enforceable statutory nurse-to-patient ratios that support quality patient care. The coalition has highlighted that aspect of the hospital staffing law many times. The law also allows nurse staffing committees to engage in local decision making in pursuit of innovative care models, and Oregon's nurse staffing committees in rural areas may agree to plans that meet their local needs.

When the hospital staffing law was passed, no other state in the country had enforceable statutory nurse-to-patient ratios. During the negotiations, statutory nurse-to-patient ratios were a clear priority for ONA. We agreed to support that provision because of other provisions in the law. It was critical that the statutory nurse-to-patient ratios serve as the dispute resolution solution in units where the statutory nurse-to-patient ratio applied. No other pathway for dispute resolution exists for units where the statutory nurse-to-patient



ratio applies. This intent is well documented in coalition created materials previously provided to OHA, specifically the "Nurse Staffing Roadmap," which is attached to this letter.

There needs to be a way to resolve disputes within nurse staffing committees effectively and efficiently. We believe the law does that and the Nurse Staffing Roadmap, produced by the coalition, is an easy way to see how the process is intended to work for units with ratios in statute. For units with ratios in statute, the nurse staffing committee must follow the statutory ratio unless a majority of the nurse staffing committee votes, with equal number of staff and managers voting, to allow a unit to deviate from statutory ratios in pursuit of innovative care models or to vary from the statutory ratios as a type A or type B (*i.e.*, rural) hospital. If the nurse staffing committee does not approve such a change, the relevant statutory ratio applies.

We recognize that OHA has been working diligently to understand this new law and build processes to support and enforce compliance. Unfortunately, we fear that some of OHA's statements, particularly those made during the recent OHA webinar, indicate a departure from the legislative and coalition intent of the bill and have created confusion. Based on statements made during the webinar, it is unclear to us how OHA expects nurse staffing committees to establish nurse staffing plans for units where statutory ratios apply. We would welcome the opportunity to meet with OHA to discuss this topic.

The Nurse Staffing Roadmap also describes the dispute resolution process that applies to units with no ratio in statute. For those units with no ratio in statute, the nurse staffing committee has the opportunity to set the standard. When the nurse staffing committee cannot reach agreement, the dispute is resolved through expedited binding arbitration.

The arbitration process was not established in time for nurse staffing committees to use the process prior to the June 1 deadline. As a result, nurse staffing committees that may have needed the arbitration process to resolve disputes in units with no ratio in statute, would not have had access to it. We should expect that some nurse staffing committee members may not like this law and may not agree to a staffing plan. Nurse staffing committees consist of an equal number of managers and staff, and a decision made by the nurse staffing committee must be made by a vote of a majority of the members of the committee, with equal numbers of managers and staff voting.

Some of OHA's comments related to arbitration during the webinar caused confusion, however, we are hopeful that confusion will soon be resolved now that OHA has posted



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the nurse staffing plan arbitration request form. As we expected, expedited binding arbitration applies to units with no ratio in statute and specified categories of patients where the statutory ratios do not apply.

The coalition's hope in passing this law was that it would prevent staff burnout and return nurses to the bedside. That remains the Hospital Association of Oregon's hope. The reality, however, is that Oregon is still struggling to have enough health care workers across the state to meet the needs of our communities, and many hospitals are financially unstable. Workforce shortages combined with supply chain fractures, capacity challenges, and high inflation have fueled hospital operating costs to a breaking point. This has made implementation of the law even more challenging, as hospitals struggle to maintain services, invest in the recruitment of additional staff, and pay for the expanded labor force.

With a law this transformational and complex, close collaboration between stakeholders and OHA is critical. The hospital staffing law is a first-in-the nation law that includes enforceable statutory registered nurse-to-patient ratios in certain hospital units. The law also reduces administrative burdens that existed under the prior nurse staffing law that took time and resources away from providing care to patients. We are proud that this law gives professional, technical, and service health care workers a stronger voice in the creation of staffing plans.

As a key stakeholder in this process, we would welcome the opportunity to share our perspectives on this law at this stage of implementation. Implementation of the hospital staffing law will take time and ongoing work. We remain committed to the partnership that created this law, and we will continue to seek to resolve disagreements together as partners. We encourage OHA to communicate with the coalition and support implementation of the law that aligns with the legislative and coalition intent.

Sincerely,

Sean Kolmer  
Executive Vice President, External Affairs

CC: Governor Tina Kotek

CC: Kristina Narayan, Dave Baden, Ashley Thirstrup, Dana Selover, Anna Davis



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